

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FLUIDIGM CORPORATION, a Delaware
corporation,

Plaintiff,

v.

NANOSTRING TECHNOLOGIES, INC.,
a Delaware corporation,

Defendant.

Case No. 3:12-cv-05712 RS (NC)

AGREED ORDER OF DISMISSAL

WHEREAS, Plaintiff Fluidigm Corporation (“Fluidigm”) filed a complaint against Defendant NanoString Technologies, Inc. (“NanoString”) alleging false advertising in violation of CAL. BUS. & PROF. CODE § 17500 *et seq.*; unlawful trade practice in violation of CAL. BUS. & PROF. CODE § 17200 *et seq.*; and unfair competition in violation of the common law of California and other states in which NanoString is conducting its activities concerning the marketing and promotion of the nCounter® Single Cell Gene Expression Assay.

WHEREAS, Fluidigm and NanoString have entered into a settlement agreement disposing of this case, and resolving all issues and controversies to their mutual satisfaction;

WHEREAS, as part of the settlement agreement, Fluidigm and NanoString have agreed that all claims in the above-entitled and numbered action shall be dismissed with prejudice to re-filing, and without costs to any party, all parties to bear their own costs and attorney’s fees;

1 WHEREAS, Fluidigm and NanoString further agree and consent that the Court shall
2 retain jurisdiction to enforce the terms of their settlement agreement under the authority of
3 *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 381-82 (1994).

4 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

5 1. The parties shall comply with the terms of their settlement agreement entered into
6 on September 30, 2013, the terms of which are incorporated by reference as if fully set forth.

7 2. By consent of the parties, the Court shall retain jurisdiction for the purpose of
8 enforcing the terms of the settlement agreement through September 30, 2023.

9 3. Except as provided for in paragraphs 1 and 2 above, this case is dismissed, with
10 prejudice, and each party shall bear its own attorney's fees and costs.

11 SIGNED on this the 22nd day of October, 2013.

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14 RICHARD SEEBORG
15 UNITED STATES DISTRICT JUDGE
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18 APPROVED AS TO FORM AND SUBSTANCE:

19 Dated: October 22, 2013

FULBRIGHT & JAWORSKI LLP

20 By: /s/ Saul Perloff

21 **Saul H. Perloff**

22 *Attorneys for Plaintiff*

FLUIDIGM CORPORATION

23
24 Dated: October 22, 2013

ORRICK, HERRINGTON & SUTCLIFFE LLP

25 By: /s/ Peter Vogl

26 **Peter Vogl**

27 *Attorneys for Defendant*

28 NANOSTRING TECHNOLOGIES, INC.